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FISCAL IMPACT STATEMENT

LS 6202

BILL NUMBER: SB 273

NOTE PREPARED: Jan 19, 2012

BILL AMENDED: Jan 19, 2012

SUBJECT: Regulation of Outdoor Stage Equipment.

FIRST AUTHOR: Sen. Lanane

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Prohibition of Use Without Permit*- The bill prohibits the use of outdoor stage equipment for an outdoor performance without a permit issued by the Division of Fire and Building Safety (DFBS) or a county, city, or town acting under a regulatory program approved by the Fire Prevention and Building Safety Commission (FPBSC). The bill provides for the establishment of standards for, and the inspection of, outdoor stage equipment by the FPBSC.

Amusement & Entertainment Permits- The bill indicates that state regulation of outdoor stage equipment applies to places that are not covered by the law governing regulated places of amusement or entertainment. The bill includes "overhead assemblies" in the definition of outdoor stage equipment. The bill indicates that the issuance of a permit for a regulated place of amusement or entertainment is conditioned on compliance with the law governing outdoor stage equipment.

Applicable Standards- The bill requires an applicant for an outdoor stage equipment permit to agree to operate, maintain, inspect, and use outdoor stage equipment in conformity with applicable standards.

DFBS Inspectors- The bill replaces a provision requiring inspections by the DFBS or an approved unit in all cases with a provision that: (1) requires the applicant to provide for inspections of outdoor stage equipment under standards specified by the commission; and (2) permits inspections by the DFBS.

Effective Date: Upon passage.

Explanation of State Expenditures: (Revised) *Amusement & Entertainment Permits*- This provision would add an additional condition (compliance with outdoor stage equipment requirements as established by this bill) to meet in order to receive an amusement and entertainment permit. It is likely the DFBS would be able to confirm that the compliance has been met within the normal course of business.

(Revised) *Prohibition of Use Without Permit*- The bill would allow the FPBSC to establish the thresholds on which structures would not have to be inspected with respect to size and weight. The FPBSC would be able to authorize inspection programs within “approved units” as defined by the bill. Additionally, the FPBSC would be able to adopt rules allowing a person wishing to be permitted to provide for the inspection of outdoor stage equipment. The FPBSC would be able to adopt rules necessary to implement these provisions within the normal course of business.

(Revised) *DFBS Inspectors*- The bill does not require, but would allow, DFBS inspectors to enter and access any place that outdoor stage equipment is installed to determine compliance with applicable equipment laws. The bill does not include an appropriation. Therefore, the extent to which DFBS inspectors enter areas where outdoor stage equipment is being erected would depend on the existing resources available to the Department of Homeland Security in lieu of future legislative or administrative action.

(Revised) *Penalty Provision*: An applicant or engineer that fills out a certificate application for an outdoor stage equipment permit would be under the penalties of perjury. Perjury is a Class D felony. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,318 annually, or \$9.09 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: Summary: The bill would allow the FPBSC to establish fees for the inspection and permitting of outdoor stage equipment. The bill would impose a Class C infraction on certain persons in violation of outdoor stage equipment regulations.

(Revised) *Amusement & Entertainment Permits*- As described above, entities wishing to acquire a permit for an amusement or entertainment purpose would have to comply with outdoor stage equipment requirements. Currently, in order to receive a permit, the applicant must demonstrate via an inspection that the area covered by the permit complies with applicable fire safety laws. The additional provision added by the bill may deter some applicants that would also have to obtain an inspection for the outdoor stage equipment. As a result, applications could decline and fee revenue from amusement and entertainment permits could diminish. Revenue from these permits is deposited into the Fire and Building Services Fund. FY 2011 revenue collections totaled \$208,403.

(Revised) *Penalty Provision*: In addition, if an engineer or applicant knowingly falsified a permit certificate application to operate outdoor stage equipment, they would commit perjury a Class D felony. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. With respect to the Class C infractions the bill would add, the maximum judgment for a Class C infraction is \$500, which would be deposited in the state General Fund. Depending on the number of stages inspected, any additional revenue is likely to be small.

Explanation of Local Expenditures: (Revised) *Regulation by Local Units of Government*- The bill would prohibit a local unit of government from regulating outdoor stage equipment unless approved by the FPBSC. The cost to local units to regulate outdoor staging equipment is indeterminable. However, the ability the bill would provide to allow private professional engineers or other qualified individuals to privately inspect outdoor equipment for persons seeking a permit could mitigate the need for a local unit to set up an inspection program.

(Revised) *Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions are filed and a judgment is entered, local governments would receive revenue from court fees. However, any additional revenue is likely to be small.

State Agencies Affected: Department of Homeland Security; Department of Correction.

Local Agencies Affected: Local units that inspect outdoor staging equipment, trial courts, local law enforcement agencies.

Information Sources: Mara Snyder, Department of Homeland Security; *Indiana Handbook of Taxes, Revenues, and Appropriations FY 2011 edition*.

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